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Docket Management Facility
U.S. Department of Transportation
Room PL-401
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Washington, D.C. 20590-0001

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DEPT OF TRANSPORTATION

Re: Fire Suppression Systems and Voyage Planning for Towing Vessels
(USCG-2000-6931) - 44

Dear Sir or Madam:

The American Waterways Operators (AWO) is the national trade association representing the inland and coastal tugboat, towboat, and barge industry. AWO's 375 member companies own and operate the majority of the inland, coastal, and harbor towing vessels that will be affected by the Coast Guard's supplemental notice of proposed rulemaking (SNPRM) regarding fire suppression systems and voyage planning. AWO's members are deeply concerned about this rulemaking, and we appreciate the opportunity to submit these comments on their behalf.

AWO's Organizational Perspective

AWO approaches this rulemaking as an organization firmly committed to leadership in marine safety and environmental protection. The AWO Responsible Carrier Program (RCP), the third-party-audited safety management system with which all AWO members agree to comply as a condition of membership in the association, and the first-of-its-kind Coast Guard-AWO Safety Partnership are tangible examples of that commitment. As an advocate for the tugboat, towboat, and barge industry, AWO is also committed to ensuring that federal regulations add value; that is, that they solve real problems in a practical, cost-effective way. AWO's track record of participation in the regulatory process demonstrates that the association has been willing to support regulatory initiatives that meet that test, even when they impose costs on AWO's members. Simply stated, we do not believe that the Coast Guard's proposal to require fixed fire suppression systems and voyage planning for inland and harbor towing vessels adds sufficient value to justify its imposition as a regulatory requirement.

The Coast Guard's Statutory Mandate

We note at the outset that the approach embodied in the supplemental notice of proposed rulemaking is not compelled by the 1996 Coast Guard Authorization Act. The legislative provision that prompted this rulemaking does not require fixed fire suppression systems on any class of towing vessel. For towing vessels moving tank barges, the statute requires fire suppression systems or other measures to provide adequate assurance that fires can be suppressed under reasonably foreseeable circumstances. The legislation provides the Coast Guard discretionary authority to require such measures on other towing vessels, taking into account the characteristics, methods of operation, and nature of service of towing vessels, and in consultation with the congressionally authorized Towing Safety Advisory Committee (TSAC). The law neither requires nor suggests the one-size-fits-all approach proposed in the SNPRM.

The 1996 Coast Guard Authorization Act afforded the Coast Guard considerable flexibility in promulgating regulations for fire suppression systems on towing vessels. Congress' statutory mandate is no bar to the development of regulations that genuinely enhance towing safety and reflect a more appropriate and defensible balance of cost, benefit, and risk.

The Proposed Regulations

The SNPRM's proposal to require fixed fire suppression systems on nearly all U.S. towing vessels marks a significant departure from the approach proposed in the October 1997 notice of proposed rulemaking (NPRM). The NPRM was based on a January 1997 Towing Safety Advisory Committee report drafted with extensive Coast Guard involvement. The TSAC report was based on two premises that AWO strongly believes remain valid today, despite the Coast Guard's deviation from the committee's recommendations in the SNPRM: 1) Crew safety must be the top priority in the development of the proposed regulations; and 2) Fire safety is a continuum, encompassing prevention, early detection, and control. The sooner a fire is detected, the greater the options to control it and thus ensure the safety of the crew, the vessel, and its tow.

The October 2000 final rule on fire protection equipment for towing vessels reflected these premises. That rulemaking, which established requirements for fire detection systems, general alarms, internal communication systems, and remote fuel shutoff valves, will significantly enhance fire safety on towing vessels by improving the capability for fire prevention and early detection. The logical and necessary next step is to ensure that towing vessels are also equipped with adequate fire extinguishing capability in the event that prevention fails. The SNPRM begs the question: is a blanket requirement for fixed fire suppression systems the best way to accomplish this?

AWO believes that this question can and must be answered differently for different types of towing vessels. For towing vessels that regularly operate on offshore voyages (i.e., beyond the Boundary Line), we believe fixed fire suppression systems (installed in the vessel's engine room) are appropriate. Certainly, such systems should be considered a last resort, given that activation of a fixed fire suppression system will render the vessel powerless and unable to control its tow (with the potential risk of pollution that entails). However, on an ocean voyage, far from shore, use of a fixed system can prevent a crew from having to abandon ship in treacherous weather and sea conditions, at significant risk to personnel safety. AWO therefore supports the proposed requirement for fixed fire suppression systems in the engine rooms of offshore towing vessels, provided that 1) owners of vessels with existing fixed systems be permitted to continue using them, with no additional requirement for modification or certification by a classification society or registered professional engineer; and, 2) a provision be added allowing the owner of a vessel which does not regularly engage in offshore voyages to request a voyage-specific waiver from the Officer in Charge, Marine Inspection.

AWO does not believe that fixed fire suppression systems should be required on towing vessels engaged in inland or harbor operations. As noted above, AWO shares TSAC's view that the best course of action is to control a fire early using on-board extinguishing equipment. We believe enhancing that capability is the proper focus of this rulemaking. If the crew's efforts to extinguish a fire fail, the operator of an inland or harbor towing vessel has other last-resort options, such as accessing shore-based resources or evacuating the vessel, disengaging the boat and barges and securing them to the bank, and moving the crew onto the tow or onto the bank.

Given our belief that crew safety must be the paramount consideration in this rulemaking, AWO considered whether personnel safety is endangered by this approach. The Coast Guard's own casualty data and the experience of AWO member companies strongly suggest that it is not. To arrive at this conclusion, we examined the Coast Guard's Regulatory Assessment and Initial Regulatory Flexibility Analysis for the SNPRM, which identified 105 casualty cases between January 1, 1992, and December 31, 1996, that involved an engine room fire on a towing vessel. We also requested and examined the 105 casualty reports themselves. We found that there were ***only six reported injuries aboard five inland towing vessels among the 105 cases.***[1] ***No fatalities resulted from any of the 105 engine room fires.*** These statistics reflect the priority that towing companies place on crew safety and support the conclusion that crewmembers are not being endangered by the absence of fixed fire suppression systems on inland towing vessels.

Even if crew safety has not been endangered by the absence of a requirement for fixed fire suppression systems, AWO considered whether such systems would add significant value in controlling fires on inland or harbor towing vessels. (After all, AWO members certainly have an interest in avoiding property or environmental damage caused by a

[1] A seventh injury occurred aboard an oceangoing vessel.

vessel fire.) Our canvassing of AWO members suggests that they would not. Our research indicates that AWO member companies which have installed fixed fire suppression systems consider them a last resort and make every effort to extinguish fires by other means, such as hand-held and semi-portable fire extinguishing systems, fire pumps, etc. Indeed, a number of AWO members whose vessels are equipped with fixed fire suppression systems report not using them since the systems were installed, even though some of these companies have experienced vessel fires during that period. When fires have occurred, these companies have found that they have been able to extinguish the fire and get the crew to safety without resorting to shutting down the vessel. (Extinguishing a fire without cutting off power to the vessel is the preferred option since a towing vessel without power or steering capability is at the mercy of tides and currents and vulnerable to collision with another vessel or fixed structure such as a bridge.)

The Coast Guard casualty reports and regulatory assessment support the conclusions derived from this anecdotal survey. Analysis of the 105 engine room fires indicates that most of these fires were extinguished without a requirement for fixed fire suppression systems. AWO's analysis of the casualty reports reveals that 79 of the 105 casualties occurred in inland waters. Of those 79 fires aboard inland towing vessels, we found that 51 were extinguished, according to the information in the "Incident Brief" or "Description" sections of the casualty reports. The casualty reports did not specify whether 22 of the fires aboard inland towing vessels were extinguished. However, we concluded that 13 of those 22 fires were extinguished because of the low cost of damages caused by those fires -- from $0 to $8,500.[2] Including those 13 cases, we then calculated that ***64 of the 79 fires on inland towing vessels, a full 80 percent, were extinguished without a requirement for fixed fire suppression systems***. These fires were put out by crewmembers using portable fire extinguishers, fire pumps and hoses, and/or with the help of local fire departments or other vessels.

AWO also considered whether fixed fire suppression systems are worth requiring for whatever incremental value they might add for towing vessels operating in the inland and harbor environments. AWO again concludes that a requirement for fixed fire suppression systems is not justified. Not only are there significant technical challenges associated with a requirement for fixed fire suppression systems, especially in the case of retrofitting existing vessels -- air tightness, space considerations, etc. -- but the cost of such a requirement is simply prohibitive. Indeed, AWO is troubled by the Coast Guard's treatment of costs and benefits in this rulemaking. The proposed requirement for fixed fire suppression systems would cost the towing industry nearly $110 million and could consume five percent of a small company's revenues (not profits), according to the Coast Guard's own estimates. (It should also be noted here that the Coast Guard's cost estimates for retrofitting do not include design costs that might be necessary to modify a towing vessel to accommodate a fire suppression system.) A typical medium-sized AWO member would incur costs of more than $800,000 under this rulemaking. This amount must be considered on top of the significant costs that companies are currently incurring

[2] The damage costs were provided in Appendix B of the Regulatory Assessment.

to implement the October 2000 fire protection rule. Given the minimal value added in terms of crew safety or even pollution prevention, we believe such extraordinary costs make fixed fire suppression systems wholly inappropriate as a blanket regulatory requirement.

Even the Coast Guard's own analysis of the potential benefits of fixed fire suppression systems provides notably weak support for such a requirement. The Regulatory Assessment estimates the effectiveness that fixed fire suppression systems would have had in reducing the losses in the 105 casualty cases. The Coast Guard's analysis concludes that fixed fire suppression systems would have reduced losses by only 10 percent or not at all in 57 of the 103 cases analyzed (54 percent).[3] The Coast Guard's estimate of the effectiveness that a fixed fire suppression system would have had in the *Scandia/North Cape* casualty is particularly noteworthy. According to the Regulatory Assessment, a fire suppression system would have had been only marginally effective, reducing losses by only 10 percent in the very case that prompted this rulemaking.

The Coast Guard's cost-benefit analysis for the SNPRM places great emphasis on the environmental benefits that fixed fire suppression systems would generate, primarily through barrels of oil not spilled as a result of their use. Again using the data in the Coast Guard's own Regulatory Assessment, AWO notes that of the 105 engine room fire cases, only five resulted in pollution. One of those five cases was the *Scandia/North Cape* casualty, which resulted in 19,714 barrels of oil spilled. The size of the *Scandia/North Cape* spill skews the pollution data for the 105 cases. The four other spills that resulted from fires accounted for only 78.21 barrels of pollution, and no one spill was greater than 36 barrels. The Coast Guard likely overestimated the cost-effectiveness of this rulemaking in avoiding or reducing pollution by not discounting the aberration of the size of the *Scandia/North Cape* spill.

AWO's Proposed Alternative

For all these reasons, AWO strongly urges the Coast Guard not to require fixed fire suppression systems on towing vessels in inland or harbor service. Instead, we recommend that the Coast Guard amend the SNPRM and adopt a variation of the 1997 TSAC recommendations, which proposed the use of semi-portable fire extinguishing systems, a fixed or portable fire pump, and a fire axe to supplement the fire protection measures required by the October 2000 final rule. The fire protection rulemaking (46 CFR 27.355) already requires that crewmembers participate in monthly drills and receive regular instruction in the use of all fire extinguishing equipment on board the vessel. We also recommend that vessels be equipped with personal protective equipment to allow a crewmember to enter a smoke- or heat-filled space if necessary. Companies with existing fixed fire suppression systems installed on their vessels should have the option of continuing to use them without further requirement for modification or certification by a class society or professional engineer.

[3] There is no data in the Regulatory Assessment for two of the cases.

Voyage Planning

While the 1996 Coast Guard Authorization Act did not mandate such a requirement, the SNPRM also proposes a voyage planning requirement for all towing vessels engaged in moving barges on voyages of 12 hours or more. Again, we believe some differentiation among towing vessels based on their operational environment is necessary. While we agree that a voyage planning requirement is appropriate for towing vessels engaged on offshore voyages, we see no added value in a formal voyage planning requirement for towing vessels operating in rivers, canals, or harbors. The proposed requirement appears to contemplate a well-defined, point-to-point voyage. Inland towing operations do not fit this mold. Most inland towing vessels operate on essentially continuous "voyages," picking up and delivering barges and responding to frequent schedule changes occasioned by lock delays, crew changes, barge pick-up and drop-off changes, grocery and fuel stops, etc. As a matter of prudent seamanship and good marine practice, inland towing vessel operators continuously take into account applicable information from charts, maps, and navigation aids; their own local knowledge; weather and river conditions; the dimensions of the vessel and its tow; etc. We see no benefit to a formal requirement to include such information as part of a "voyage plan" for inland towing vessels. (We also foresee the possibility of significant confusion as to what the proposed requirement actually entails. Is a written voyage plan required? We assume not, as this is not specified by the SNPRM, but without such evidence how would an operator demonstrate to the satisfaction of the Coast Guard that he had conducted the required voyage planning process?) We urge the Coast Guard to eliminate this unnecessary and ambiguous requirement for towing vessels operating in rivers, canals, and harbors.

Thank you for the opportunity to comment on this important rulemaking. We would be pleased to answer any questions or provide additional information to assist the Coast Guard in evaluating its next steps on this rulemaking.

Sincerely,

Jennifer A. Kelly

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cc: Ed Clarke, Office of Information and Regulatory Affairs, OMB